



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 6, 1998

Ms. Melanie Barton
Assistant District Attorney
Civil Section
Administration Building
411 Elm Street
Dallas, Texas 75202

OR98-0038

Dear Ms. Barton:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111488.

Dallas County (the "county") received a request for the psychiatric records of a particular individual. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Chapter 611 of the Health and Safety Code provides for the confidentiality of mental health records created or maintained by a mental health professional. Section 611.002 of the Health and Safety Code provides in pertinent part:

(a) Communications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential.

(b) Confidential communications or records may not be disclosed except as provided by Section 611.004 or 611.0045.

Section 611.001 defines a "professional" as (1) a person authorized to practice medicine, (2) a person licensed or certified by the state to diagnose, evaluate or treat mental or emotional conditions or disorders, or (3) a person the patient reasonably believes is authorized, licensed, or certified. Assuming that a professional, as defined by section

611.001, prepared the records submitted to this office for review, sections 611.004 and 611.0045 of the Health and Safety Code govern the release of this information.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/gle

Ref.: ID# 111488

Enclosures: Submitted documents

cc: Ms. Shirley Harris-Jackson
8819 Judwin
Houston, Texas 77075
(w/o enclosures)

¹In addition, we note that some of the requested information may be governed by other provisions of law. See Act of June 2, 1997, H.B. 1550, 75th Leg., R.S. (juvenile law enforcement records concerning conduct that occurred before January 1, 1996, governed by former section 51.14(d) of Fam. Code, which is continued in effect for that purpose); Gov't Code § 352 (distribution of confidential information is criminal offense).